

flect correction of corresponding provision of original act.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-550 effective as if included in the Federal Deposit Insurance Corporation Improvement Act of 1991, Pub. L. 102-242, as of Dec. 19, 1991, see section 1609(a) of Pub. L. 102-550, set out as a note under section 191 of this title.

§ 4313. Definitions

For the purposes of this chapter—

(1) Account

The term “account” means any account intended for use by and generally used by consumers primarily for personal, family, or household purposes that is offered by a depository institution into which a consumer deposits funds, including demand accounts, time accounts, negotiable order of withdrawal accounts, and share draft accounts.

(2) Annual percentage yield

The term “annual percentage yield” means the total amount of interest that would be received on a \$100 deposit, based on the annual rate of simple interest and the frequency of compounding for a 365-day period, expressed as a percentage calculated by a method which shall be prescribed by the Board in regulations.

(3) Annual rate of simple interest

The term “annual rate of simple interest”—

(A) means the annualized rate of interest paid with respect to each compounding period, expressed as a percentage; and

(B) may be referred to as the “annual percentage rate”.

(4) Board

The term “Board” means the Board of Governors of the Federal Reserve System.

(5) Deposit broker

The term “deposit broker”—

(A) has the meaning given to such term in section 1831f(f)(1)¹ of this title; and

(B) includes any person who solicits any amount from any other person for deposit in an insured depository institution.

(6) Depository institution

The term “depository institution” has the meaning given such term in clauses (i) through (vi) of section 461(b)(1)(A) of this title, but does not include any nonautomated credit union that was not required to comply with the requirements of this chapter¹ as of September 30, 1996, pursuant to the determination of the National Credit Union Administration Board.

(7) Interest

The term “interest” includes dividends paid with respect to share draft accounts which are accounts within the meaning of paragraph (3).

(8) Multiple rate account

The term “multiple rate account” means any account that has 2 or more annual rates of

simple interest which take effect at the same time or in succeeding periods and which are known at the time of disclosure.

(Pub. L. 102-242, title II, §274, Dec. 19, 1991, 105 Stat. 2342; Pub. L. 102-550, title XVI, §1604(e)(2)(S), Oct. 28, 1992, 106 Stat. 4084; Pub. L. 103-325, title III, §332, Sept. 23, 1994, 108 Stat. 2232; Pub. L. 104-208, div. A, title II, §2604(c), Sept. 30, 1996, 110 Stat. 3009-471.)

REFERENCES IN TEXT

Section 1831f(f)(1) of this title, referred to in par. (5)(A), was redesignated section 1831f(g)(1) of this title by Pub. L. 102-242, title III, §301(a)(4), Dec. 19, 1991, 105 Stat. 2344.

This chapter, referred to in par. (6), was in the original “this title”, and was translated as meaning “this subtitle”, which is subtitle F of title II of Pub. L. 102-242, Dec. 19, 1991, 105 Stat. 2334, which enacted this chapter, to reflect the probable intent of Congress.

AMENDMENTS

1996—Par. (6). Pub. L. 104-208 inserted before period at end “, but does not include any nonautomated credit union that was not required to comply with the requirements of this chapter as of September 30, 1996, pursuant to the determination of the National Credit Union Administration Board”.

1994—Par. (1). Pub. L. 103-325 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “The term ‘account’ means any account offered to 1 or more individuals or an unincorporated nonbusiness association of individuals by a depository institution into which a customer deposits funds, including demand accounts, time accounts, negotiable order of withdrawal accounts, and share draft accounts.”

1992—Pub. L. 102-550 made technical amendment to reference to “this chapter” in introductory provisions to reflect correction of corresponding provision of original act.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-550 effective as if included in the Federal Deposit Insurance Corporation Improvement Act of 1991, Pub. L. 102-242, as of Dec. 19, 1991, see section 1609(a) of Pub. L. 102-550, set out as a note under section 191 of this title.

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¹ See References in Text note below.

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SUBCHAPTER I—BILATERAL AND CLEARING ORGANIZATION NETTING

§ 4401. Findings and purpose

The Congress finds that—

(1) many financial institutions engage daily in thousands of transactions with other financial institutions directly and through clearing organizations;

(2) the efficient processing of such transactions is essential to a smoothly functioning economy;

(3) such transactions can be processed most efficiently if, consistent with applicable contractual terms, obligations among financial institutions are netted;

(4) such netting procedures would reduce the systemic risk within the banking system and financial markets; and

(5) the effectiveness of such netting procedures can be assured only if they are recognized as valid and legally binding in the event of the closing of a financial institution participating in the netting procedures.

(Pub. L. 102-242, title IV, § 401, Dec. 19, 1991, 105 Stat. 2371.)

SEPARABILITY

If any provision of Pub. L. 102-242 or any application of any provision thereof to any person or circumstance is held invalid, the remainder of Pub. L. 102-242 and the application of any remaining provision of such Act to any other person or circumstance not to be affected by such holding, see section 481 of Pub. L. 102-242, set out as a note under section 1811 of this title.

§ 4402. Definitions

For purposes of this subchapter—

(1) Broker or dealer

The term “broker or dealer” means—

(A) any company that is registered or licensed under Federal or State law to engage in the business of brokering, underwriting, or dealing in securities in the United States; and

(B) to the extent consistent with this title,¹ as determined by the Board of Governors of the Federal Reserve System, any company that is an affiliate of a company described in subparagraph (A) and that is engaged in the business of entering into netting contracts.

(2) Clearing organization

The term “clearing organization” means a clearinghouse, clearing association, clearing corporation, or similar organization—

(A) that provides clearing, netting, or settlement services for its members and—

(i) in which all members other than the clearing organization itself are financial institutions or other clearing organizations; or

(ii) which is registered as a clearing agency under the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.]; or

(B) that is registered as a derivatives clearing organization under section 7a-1 of title 7.

(3) Covered clearing obligation

The term “covered clearing obligation” means an obligation of a member of a clearing organization to make payment to another member of a clearing organization, subject to a netting contract.

(4) Covered contractual payment entitlement

The term “covered contractual payment entitlement” means—

(A) an entitlement of a financial institution to receive a payment, subject to a netting contract from another financial institution; and

(B) an entitlement of a member of a clearing organization to receive payment, subject to a netting contract, from another member of a clearing organization of a covered clearing obligation.

(5) Covered contractual payment obligation

The term “covered contractual payment obligation” means—

(A) an obligation of a financial institution to make payment, subject to a netting contract to another financial institution; and

(B) a covered clearing obligation.

(6) Depository institution

The term “depository institution” means—

(A) a depository institution as defined in section 19(b)(1)(A) of the Federal Reserve Act [12 U.S.C. 461(b)(1)(A)] (other than clause (vii));

(B) a branch or agency as defined in section 1(b) of the International Banking Act of 1978 [12 U.S.C. 3101];

(C) a corporation chartered under section 25(a)¹ of the Federal Reserve Act [12 U.S.C. 611 et seq.]; or

(D) a corporation having an agreement or undertaking with the Board of Governors of the Federal Reserve System under section 25 of the Federal Reserve Act [12 U.S.C. 601 et seq.].

(7) Failed financial institution

The term “failed financial institution” means a financial institution that—

(A) fails to satisfy a covered contractual payment obligation when due;

(B) has commenced or had commenced against it insolvency, liquidation, reorganization, receivership (including the appointment of a receiver), conservatorship, or similar proceedings; or

(C) has generally ceased to meet its obligations when due.

(8) Failed member

The term “failed member” means any member that—

¹ See References in Text note below.